



Patent Docket P1760R1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of David B. Agus et al. Serial No.: 09/602,800 Filed: June 23, 2000 For: Treating Prostate Cancer with Anti-ErbB2 Antibodies	Group Art Unit: 1642 Examiner: J. Hunt
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DECLARATION UNDER 37 CFR §1.132

AUG 20 2002

Assistant Commissioner of Patents
Washington, D.C. 20231

TECH CENTER 1600/2900

Sir:

I, Wendy M. Lee, Senior Patent Agent - Specialist, in Genentech's legal department, do hereby declare and say as follows:

1. The hybridoma cell line producing the 2C4 monoclonal antibody was deposited with the American Type Culture Collection (ATCC), 10801 University Blvd., Manassas, VA 20110-2209 USA on April 8, 1999 and accorded accession number HB-12697. The ATCC is a depository which affords permanence of the deposit and ready accessibility by the public if a patent is granted. The deposit was made under the provisions of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure and the Regulations thereunder (Budapest Treaty). A copy of the deposit receipt and viability statement for the deposited cell line is attached hereto.

2. All restrictions on the availability to the public of the deposit will be irrevocably removed upon the granting of a US patent on the above application.


3. The above hybridoma cell line has been deposited under conditions that ensure that access to it will be available during the pendency of the patent application to one determined by the Commissioner to be entitled thereto under 35 CFR 1.14 and 35 USC 122.

4. The deposit will be stored with all care necessary to keep it viable and uncontaminated for a period of at least five years after the most recent request for the furnishing of a sample of the deposit, and in any case at least thirty (30) years after the date of the deposit or for the enforceable life of any patent granted on the above application, whichever is longer.

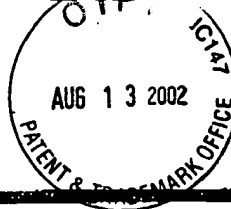
5. The deposit shall be replaced should the depository be unable to furnish a sample when requested due to the condition of the deposit.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the instant patent application or any patent issued thereon.

Date: August 13, 2002


Wendy M. Lee

ATCC



10501 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

APR 23 1999

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 40.2

To: (Name and Address of Depositor or Attorney)

Genentech, Inc.
Attn: Wendy M. Lee
1 DNA Way
South San Francisco, CA 94080-4990

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AUG 20 2002

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Deposited on Behalf of: Genentech, Inc. (Ref. P712P4C3 and P1467)

Identification Reference by Depositor:

ATCC Designation

Murine/Murine Hybridoma cell line 2C4

HB-12697

The deposit was accompanied by: a scientific description a proposed taxonomic description indicated above.

The deposit was received April 8, 1999 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: X We will not inform you of requests for the strain.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested April 19, 1999. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Barbara M. Hailey
Barbara M. Hailey, Administrator, Patent Depository

Date: April 19, 1999